

market; but such termination shall be effective only if announced on or before April 30 of the then current fiscal period.

(d) The Secretary shall conduct a referendum as soon as practicable after July 31, 1992, and at such time every sixth year thereafter, to ascertain whether continuance of this order is favored by potato producers. The Secretary may terminate the provisions of this order at the end of any fiscal period in which the Secretary has found that continuance of this order is not favored by producers who, during a representative period determined by the Secretary, have been engaged in the production for market of potatoes in the production area. Termination of the order shall be effective only if announced on or before July 1 of the then current fiscal period.

(e) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

[23 FR 5709, July 30, 1958. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 53 FR 3189, Feb. 4, 1988]

#### § 945.84 Proceedings after termination.

(a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall upon request of the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

#### § 945.85 Effect of termination or amendments.

(a) Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (1) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (2) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (3) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

(b) The persons who are committee members and alternates on the effective date of this subpart shall continue in office until their successors have been selected and have qualified. All rules and regulations issued or approved by the Secretary pursuant to this part (Order No. 945, as amended) and not in conflict herewith, which are in effect immediately prior to the date of this amendment shall continue in effect under this subpart as originally issued, or subsequently modified, until such rules and regulations are changed, modified, or suspended in accordance with this subpart.

#### § 945.86 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

#### § 945.87 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division

## § 945.88

in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

### § 945.88 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers, granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

### § 945.89 Personal liability.

No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

### § 945.90 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

### § 945.91 Amendments.

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

## Subpart—Rules and Regulations

SOURCE: 24 FR 8688, Oct. 27, 1959, unless otherwise noted. Redesignated at 26 FR 12751, Dec. 30, 1961.

### § 945.100 Communications.

Unless otherwise provided by specific direction of the committee, all reports, applications, submittals, requests, and communications in connection with the marketing agreement and order, both as amended, shall be addressed to the committee at its principal office.

## 7 CFR Ch. IX (1–1–08 Edition)

### DEFINITIONS

### § 945.110 Order.

*Order* means Order No. 945, as amended, effective September 1, 1958 (§§ 945.1 through 945.91) regulating the handling of Irish potatoes grown in Malheur County, Oregon, and the counties of Adams, Valley, Lemhi, Clark, and Fremont in the State of Idaho, and all of the counties in Idaho lying south thereof.

### § 945.111 Fiscal period.

The fiscal period that began June 1, 1981, shall end July 31, 1982. Each year thereafter *fiscal period* shall mean the period beginning August 1 and ending the following July 31.

[47 FR 17272, Apr. 22, 1982]

### § 945.112 Terms.

Terms used in this subpart shall have the same meaning as when used in the marketing agreement and order, both as amended.

### CERTIFICATES OF PRIVILEGE

### § 945.120 General.

Whenever shipments of potatoes for special purposes pursuant to § 945.53 are relieved in whole or in part from grade and size regulations issued under § 945.52 the committee shall require information and evidence as to the manner, methods, and timing of such shipments as safeguards against the entry of any such potatoes into trade channels other than those for which intended. Such information and evidence shall include the requirements set forth below with respect to Certificates of Privilege.

### § 945.121 Qualification.

Before handling potatoes for special purposes which do not meet regulations issued pursuant to § 945.52 a handler must qualify with the committee to handle shipments for special purposes. To qualify he must (a) apply for and receive a Certificate of Privilege indicating his intent to so handle potatoes; (b) agree to comply with reporting and other requirements set forth in §§ 945.121 to 945.125, inclusive, with respect to such shipments; and (c) receive